

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

W. A. DREW EDMONDSON, in his)
capacity as ATTORNEY GENERAL)
OF THE STATE OF OKLAHOMA and)
OKLAHOMA SECRETARY OF THE)
ENVIRONMENT C. MILES TOLBERT,)
in his capacity as the)
TRUSTEE FOR NATURAL RESOURCES)
FOR THE STATE OF OKLAHOMA,)

Plaintiff,)

vs.)

4:05-CV-00329-TCK-SAJ

TYSON FOODS, INC., et al,)

Defendants.)

THE DEPOSITION OF STEVE

BUTLER, produced as a witness on behalf of the
Plaintiff in the above styled and numbered cause,
taken on the 26th day of April, 2007, in the City of
West Siloam Springs, County of Delaware, State of
Oklahoma, before me, Lisa A. Steinmeyer, a Certified
Shorthand Reporter, duly certified under and by
virtue of the laws of the State of Oklahoma.

A P P E A R A N C E S

FOR THE PLAINTIFFS:

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Tulsa, OK 74119
-and-
Mr. Louis W. Bullock
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FOR TYSON FOODS:

Mr. Robert George
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The Three Sisters Bldg.
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Fayetteville, AR 72701

FOR CARGILL:

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FOR SIMMONS FOODS:

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FOR PETERSON FARMS:

Mr. Philip D. Hixon
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FOR POULTRY PARTNERS:

Mr. D. Kenyon Williams
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320 South Boston
Suite 400
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1 FOR GEORGE'S: Ms. Jennifer Lloyd
2 Attorney at Law
3 221 North College
Fayetteville, AR 72701

4 ALSO PRESENT: Ms. Elizabeth Bullock

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1 Q Of Tyson?

2 A Of Tyson at the time and, you know, inspected
3 the premises, see if I thought it was something
4 worth pursuing.

5 Q Did you hire any professionals or others to 11:24AM
6 assist you in doing a due diligence?

7 A No, sir.

8 Q Was there any, in any of the discussions with
9 regard to the negotiation of the purchase and lease
10 of these complexes, the issue of what to do with the 11:25AM
11 poultry waste that's generated there?

12 A Not to my memory.

13 Q Was there any discussion that you didn't want
14 to be responsible for the poultry waste that's
15 generated there? 11:25AM

16 MR. WILLIAMS: Object to the form.

17 A Repeat the question.

18 Q Did you make any proposals or suggestions to
19 Tyson that you didn't want to be responsible for the
20 waste that's generated by their birds in these 11:25AM
21 complexes?

22 A Absolutely not.

23 Q Was that a consideration when you entered into
24 this agreement about what to do with the waste,
25 poultry waste? 11:25AM

1 A Poultry litter was a consideration.

2 Q And what is that consideration?

3 A Well, you've got to take into account you
4 don't know what the future was for litter, but to me
5 it's a commodity. I can sell it, make money.

11:26AM

6 Q Do you in fact make money?

7 A I had to take into account there's a chance I
8 might lose that some day. So, yes, there was
9 consideration.

10 Q Okay, and when you say you thought there might
11 be a chance you would lose it, what are you
12 referring to?

11:26AM

13 A My litter.

14 Q And what was that based on?

15 A Just, you know, the Eucha-Spavinaw thing had
16 happened. You know, you hear what's going on in the
17 world, you know. You know there's a risk you take
18 that some day that may not be our litter, you know,
19 and that was going to hurt us, and so I had to take
20 that into consideration in my purchase offer.

11:26AM

11:26AM

21 Q And you did so; correct?

22 A Yes.

23 Q And so in that consideration that you made, is
24 it your opinion that you can operate these without
25 the sale of that litter?

11:27AM

1 A Well, so many other things have increased in
2 price since January of '04 that it would crush me if
3 I didn't have --

4 Q At the time you made that consideration is the
5 form of my question. At that time did you take into
6 consideration that you could profitably operate
7 these complexes without the sale of litter?

11:27AM

8 A Yes, I did.

9 Q Did you believe you could?

10 A Yes, I did.

11:27AM

11 Q Did you look at any books, financial books and
12 records as part of your due diligence before you
13 made your decision to submit a bid?

14 A I had a hard time getting any performance
15 history on the farms, but I did see some performance
16 history but as far as books, no.

11:28AM

17 Q What was it that you looked at when you
18 referred to it as performance history; what would
19 that be?

20 A Well, I was not only acquiring the farms but I
21 was also taking the employees that were on the
22 farms, and I wanted to evaluate the abilities of
23 each of those because I knew they weren't all going
24 to make it under my program. I'm probably a little
25 bit harder to work for than Tyson is, and so I

11:28AM

11:28AM

1 Q Do you know whether or not BMP would know?

2 A That's truck driver talk, but there would be
3 other paperwork supporting this that would probably
4 say the name of the owner of the sod farm.

5 Q Okay. 11:43AM

6 MR. WILLIAMS: When you get to a convenient
7 point, another break would probably be helpful.

8 MR. GARREN: I was thinking we might just
9 push us into lunch.

10 MR. WILLIAMS: If that's what you want to 11:43AM
11 do.

12 Q Do you know what the eligibility requirements
13 are for you to participate in the project grant
14 money?

15 A My understanding is to be in the Illinois 11:44AM
16 River watershed or I think you might can even be in
17 Eucha-Spavinaw. I'm not sure. I know if you are in
18 the Illinois River watershed and ship it to a
19 watershed that's not nutrient limited.

20 Q Do you know whether or not company-owned farms 11:44AM
21 can participate?

22 A I do not believe company-owned farms can.

23 Q Do you consider yourself an independent
24 contractor doing the work for Tyson; is that what --

25 MR. WILLIAMS: Objection to form. 11:44AM

1 A I'm definitely an independent. I mean I
2 contract, raise broilers for Tyson.

3 Q Okay. What, if any, encouragement or --
4 that's fine -- encouragement did you receive from
5 Tyson to participate in the grant projects for
6 litter transport?

11:45AM

7 A Encouragement? Define what you mean by
8 encouragement.

9 Q We'll start back a little bit then. You
10 indicated your first contact on this was seeing the
11 ads of BMP and you made a phone call?

11:45AM

12 A Uh-huh.

13 Q Did Tyson or any of its representatives
14 explain to you that that project is out there, that
15 grant money is available and you need to get into
16 it?

11:45AM

17 A Shortly after that I did have a conversation
18 with some folks from Tyson that said, yes, it's
19 there and that would be great.

20 Q Who was it you talked to?

11:45AM

21 A It would be -- I know Steve Patrick. Steve
22 Patrick is who I talked to about that.

23 Q What's his position with Tyson?

24 A I couldn't tell you his title. I know he's in
25 the environmental end of things.

11:46AM

1 A I may have read one of them. I did not sit
2 down and read through them all.

3 Q Do you know whether or not Danny Partain read
4 any one of them?

5 A I do not, no. The waste management plan 01:50PM
6 typically pertains to people that are applying
7 litter on their land and we don't. We haul ours out
8 of the watershed.

9 Q Let's talk about the day-to-day operation and
10 Danny Partain. You identified him as being 01:51PM
11 obviously on the license with you as the operator?

12 A That's correct.

13 Q You've explained to me that he operated these
14 complexes in advance of your purchasing them.

15 A To the best of my knowledge I think he's been 01:51PM
16 at Hudson and then Tyson and now at Green Country, I
17 think approximately eighteen years.

18 Q How old a man is he?

19 A I've never asked him.

20 Q So is he a paid employee of Green Country at 01:51PM
21 this time?

22 A Yes, he is.

23 Q Does he -- does Tyson assist you in the
24 payment of your employees or their benefits in any
25 way directly? 01:52PM

1 A Not at all, unless you consider grower pay.

2 They are my income all together, so --

3 Q The amount of money you receive from Tyson for
4 the flock?

5 A I use the money -- I raise flocks. Tyson pays 01:52PM
6 me and then I pay.

7 Q You pay your bills?

8 A Yes.

9 Q And he's one of your bills?

10 A Yes. 01:52PM

11 Q There's a gentleman by the name of Larry

12 Pharr. Do you know who he is?

13 A I do not know him personally.

14 Q He doesn't work then for Green Country at this
15 time? 01:52PM

16 A No, he does not.

17 Q Has he ever?

18 A No, he does not.

19 MR. WILLIAMS: How do you spell Pharr?

20 MR. GARREN: P-H-A-R-R. 01:52PM

21 Q Was he with Tyson then before he bought the
22 operation or do you know that?

23 A I can't remember if he was with Tyson or
24 Hudson.

25 Q Do you know what he did? 01:52PM

1 Q Keeps you in better standing with the
2 integrator?

3 A That and it makes you money. That's what
4 they're there for is to help us make money.

5 Q I missed a couple of documents going through 03:55PM
6 earlier but I'm going to catch up on those. I'll
7 let you look at No. 18 and we talked about a
8 different form earlier that involved the BMP, Inc.,
9 project grants and if I'm not mistaken, this is
10 another form that would be utilized in that project. 03:56PM
11 Do you recognize these forms?

12 A I recognize the forms.

13 Q Does your signature appear on Exhibit 18 above
14 the signature line grower?

15 A Sure, yes. 03:56PM

16 Q This is dated February of '06, is it not?

17 A Yes.

18 Q And again, because of the type of program, you
19 are required to fill out these forms in order to
20 participate and then to receive your subsidy; is 03:56PM
21 that a true statement?

22 A That's true.

23 Q I think we see on the next page of GC 286 the
24 name Mark Murray. That's the guy that you referred
25 to earlier I believe that does your contract 03:56PM

1 Q And for me to know that, I'd have to go to
2 each of your other complexes and find exactly the
3 4-8-2006 statement in order to confirm that; is that
4 a fair statement?

5 A Yes. 04:00PM

6 Q Okay. If I don't have any other 4-8-2006 --
7 let's back up. Let's go to Page GC 638 and we'll
8 see exactly what you told me. Do you see complex
9 six as No. 3?

10 A Yes, and I honestly don't remember if we were 04:00PM
11 number one that week or not, but there's a good
12 chance of it.

13 Q I think I'm done. I don't think I have any
14 other questions of you, Mr. Butler. Thank you for
15 being here today. 04:01PM

16 A Thank you.

17 MR. GEORGE: I do have a few.

18 CROSS EXAMINATION

19 BY MR. GEORGE:

20 Q Steve, my name is Robert George. You and I 04:01PM
21 met for the first time this morning; is that
22 correct?

23 A Yes.

24 Q Do you consider yourself a businessman, sir?

25 A I do. 04:01PM

1 Q And Green Country Farms is your business; is
2 that right?

3 A That is my business.

4 Q How many employees does that business support?

5 A Approximately 45. 04:01PM

6 Q And you are responsible for paying the wages
7 of those employees?

8 A Yes, I am.

9 Q I assume that business, like many other
10 businesses, has debt associated with it; is that 04:02PM
11 fair?

12 A Very much so.

13 Q And you and not Tyson are responsible for
14 paying that debt; correct?

15 A That's correct. 04:02PM

16 Q There are some costs and expenses that go into
17 operating that business; is that right?

18 A That's correct.

19 Q Some of those expenses would include things
20 like equipment; correct? 04:02PM

21 A Yes.

22 Q And I assume as a businessperson that you and
23 Green Country are responsible for purchasing the
24 equipment that you use in the operation of the
25 business; is that right? 04:02PM

1 A That's correct.

2 Q You also purchase some of the supplies that
3 are used, such as bedding material?

4 A Correct.

5 Q And you have bills that you have to pay like
6 all other businesses, such as utility bills and gas
7 bills and things of that nature; is that correct?

04:02PM

8 A That's correct.

9 Q So is it true then in this setting as a
10 business, like any other setting, that you have an
11 opportunity to either make money or lose money?

04:02PM

12 A Very much so.

13 MR. GARREN: Objection to the form of the
14 question as to another setting.

15 Q Are there indeed instances if you looked at
16 the operations of a particular complex over a period
17 of time where you might have lost money as opposed
18 to made money?

04:02PM

19 A Repeat that again.

20 Q Sure. Are there indeed instances since you've
21 owned and operated this business where if you looked
22 at a particular complex and you factored in the
23 expenses associated with that complex where you
24 might have lost money as opposed to made money?

04:03PM

25 A Yes.

04:03PM

1 MR. GARREN: Objection to form, improper
2 predicate.

3 MR. GEORGE: Was that a grammar objection?

4 Q Mr. Butler, you had some questions about the
5 disposal of dead birds from Green Country Farms; do
6 you recall those questions?

04:03PM

7 A Yes.

8 MR. GEORGE: And I'll just state for the
9 Record before I ask you a question that I don't
10 perceive this case to be about dead bird disposal
11 and I don't perceive that to be within the confines
12 of what's been alleged in the case.

04:03PM

13 MR. GARREN: Objection to the form of the
14 statement. I just object to the form.

15 MR. GEORGE: I'm simply putting the State
16 on notice by this statement: That to the extent
17 they intend to pursue claims associated with bird
18 disposal, they need to amend their complaint to
19 state that.

04:03PM

20 MR. GARREN: That wasn't a question,
21 Counsel.

04:04PM

22 MR. GEORGE: No. I said I wanted to put a
23 statement on the Record.

24 Q Now, the question, sir: You have during the
25 operation of Green Country Farms taken your dead

04:04PM